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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,124	09/26/2003	Hidetoshi Inoko	ORIN-003CIP	2646
24353	7590	09/26/2006	EXAMINER	
BOZICEVIC, FIELD & FRANCIS LLP 1900 UNIVERSITY AVENUE SUITE 200 EAST PALO ALTO, CA 94303			KAPUSHOC, STEPHEN THOMAS	
			ART UNIT	PAPER NUMBER
			1634	

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1634

### **Notice of Non-responsive Amendment to the Claims**

Please note that the Examiner handling this application has changed and is now Stephen Kapushoc in Art Unit 1634. Please address future correspondence regarding this application to the above named Examiner.

1. The amendment to the claims filed on 06/30/2006 is considered a Non-responsive amendment because all of the current claims are specifically drawn to an invention that was not elected in the Response to Election/Restriction filed on 11/16/2005.

MPEP 821.03 includes:

37 CFR 1.145. Subsequent presentation of claims for different invention. If, after an office action on an application, the applicant presents claims directed to an invention distinct from and independent of the invention previously claimed, the applicant will be required to restrict the claims to the invention previously claimed if the amendment is entered, subject to reconsideration and review as provided in §§ 1.143 and 1.144

2. Newly submitted claims 13-19 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The Requirement for Restriction of 10/17/2005 required, upon election of claims drawn to method of gene mapping, the further election of a specific combination of SEQ ID NOs: 1-27,088 for the examination of claims requiring a combination of particular SEQ ID NOs. In response to the Response to Election (filed 11/16/2005), applicant elected the specific combination of SEQ ID NO: 1 and 2, with traverse on the ground that applicant asserted that it was not clear if the election of a particular combination of SEQ ID NOs was intended as an election of species. Applicant did not traverse on the grounds that claim 3 of the claims restricted by the Requirement for Restriction of 10/17/2005 required each of SEQ ID NO: 1-27,088. Additionally, the Non-Final Office Action of 02/02/2006, in the Election/Restrictions section, clearly indicates that the Sequence election is not an election of species but an election of distinct inventions.

The currently presented claims of the amendment of 06/30/2006 which are drawn to a method of gene mapping (claims 13-19) differ from the originally presented claims in that all of the current claims recite particular SEQ ID NOs, and require 'each of the DNA sequences of SEQ ID NOs: 1-27,088'. In contrast the original claims required 'a combination of microsatellite genetic polymeric markers comprising SEQ ID NOs: 1-

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27,088, and the applicant specifically elected the particular combination of SEQ ID NO: 1 and 2. Thus the current claims require the examination of SEQ ID NOs not required by the invention elected by Applicants in the response of 11/16/2005.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 13-19 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Kapushoc whose telephone number is 571-272-3312. The examiner can normally be reached on Monday through Friday, from 8am until 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla can be reached at 571-272-0735. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen Kapushoc  
Art Unit 1634

  
CARLA J. MYERS  
PRIMARY EXAMINER